



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

A-570-985

Xanthan Gum from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review, Preliminary Determination of No Shipments, and Preliminary Partial Rescission of Antidumping Duty Administrative Review; 2014-2015

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: In response to requests from interested parties, the Department of Commerce ("the Department") is conducting an administrative review of the antidumping duty order on xanthan gum from the People's Republic of China ("PRC"). The period of review ("POR") is July 1, 2014, through June 30, 2015. The Department preliminarily: found that mandatory respondent Neimenggu Fufeng Biotechnologies Co., Ltd. (aka Inner Mongolia Fufeng Biotechnologies Co., Ltd.)/Shandong Fufeng Fermentation Co., Ltd./Xinjiang Fufeng Biotechnologies Co., Ltd. ("Fufeng") did not make sales of subject merchandise in the United States at prices below normal value ("NV") during the POR; applied total adverse facts available to A.H.A. International Co., Ltd. and Deosen Biochemical Ltd./Deosen Biochemical (Ordos) Ltd. ("Deosen"); granted separate rates to CP Kelco (Shandong) Biological Company Limited and Shanghai Smart Chemicals Co., Ltd.; included Hebei Xinhe Biochemical Co., Ltd. as part of the PRC-wide entity; and determined that three companies, Meihua Group International Trading (Hong Kong) Limited; Langfang Meihua Bio-Technology Co., Ltd.; and Xinjiang Meihua Amino Acid Co., Ltd., had no reviewable U.S. sales during the POR. Additionally, the Department is preliminarily rescinding this administrative review with respect to Inner Mongolia Jianlong Biochemical Co., Ltd ("Inner Mongolia Jianlong"). If these preliminary results are

adopted in the final results of this review, we will instruct U.S. Customs and Border Protection (“CBP”) to assess antidumping duties on all appropriate entries. Interested parties are invited to comment on these preliminary results.

DATES: Effective [Insert date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Erin Kearney or Andrew Martinez, AD/CVD Operations, Office IV, Enforcement & Compliance, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0167 or (202) 482-3627, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Background

The Department published the notice of initiation of this administrative review on September 2, 2015.<sup>1</sup> For a complete description of the events that followed the initiation of this administrative review, *see* the Preliminary Decision Memorandum hereby adopted by this notice.<sup>2</sup>

##### Scope of the Order

The scope of the order covers dry xanthan gum, whether or not coated or blended with other products. Further, xanthan gum is included in this order regardless of physical form, including, but not limited to, solutions, slurries, dry powders of any particle size, or unground fiber. Merchandise covered by the scope of this order is classified in the Harmonized Tariff

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<sup>1</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 80 FR 53106 (September 2, 2015) (“Initiation Notice”).

<sup>2</sup> See “Decision Memorandum for the Preliminary Results of the Second Antidumping Duty Administrative Review of Xanthan Gum from the People’s Republic of China,” (“Preliminary Decision Memorandum”), dated concurrently with this notice.

Schedule of the United States at subheading 3913.90.20. This tariff classification is provided for convenience and customs purposes; however, the written description of the scope is dispositive.<sup>3</sup>

#### Tolling of Deadline of Preliminary Results of Review

As explained in the memorandum from the Acting Assistant Secretary for Enforcement and Compliance, the Department has exercised its discretion to toll all administrative deadlines due to the recent closure of the Federal Government. All deadlines in this segment of the proceeding have been extended by four business days.<sup>4</sup> As a result, the revised deadline for the preliminary results of this review was April 7, 2016. On April 4, 2016, the Department extended the deadline for the preliminary results to August 5, 2016.

#### Methodology

The Department is conducting this review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (the “Act”). The Department calculated export prices and constructed export prices, as appropriate, in accordance with section 772 of the Act. Given that the PRC is a non-market economy (“NME”) country, within the meaning of section 771(18) of the Act, the Department calculated NV in accordance with section 773(c) of the Act.

For a full description of the methodology underlying the preliminary results of this review, *see* the Preliminary Decision Memorandum, which is hereby adopted by this notice.<sup>5</sup> The Preliminary Decision Memorandum is a public document and is made available to the public *via* Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (“ACCESS”). ACCESS is available to registered users at <http://access.trade.gov>, and is available to all parties in the Central Records Unit, room B8024 of

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<sup>3</sup> For a complete description of the scope of the order, *see* Preliminary Decision Memorandum.

<sup>4</sup> See Memorandum to the Record from Ron Lorentzen, Acting Assistant Secretary for Enforcement & Compliance, “Tolling of Administrative Deadlines As a Result of the Government Closure During Snowstorm Jonas” (January 27, 2016).

<sup>5</sup> A list of topics discussed in the Preliminary Decision Memorandum is provided in the Appendix to this notice.

the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be found at <http://enforcement.trade.gov/frn/>. The signed and the electronic versions of the Preliminary Decision Memorandum are identical in content.

#### Preliminary Determination of No Shipments

Based on an analysis of CBP information and timely certifications of no shipments during the POR, the Department preliminarily determines that Meihua Group International Trading (Hong Kong) Limited, Langfang Meihua Bio-Technology Co., Ltd., and Xinjiang Meihua Amino Acid Co., Ltd. had no shipments and, therefore, no reviewable transactions during the POR. For additional information regarding this determination, *see* the Preliminary Decision Memorandum.

Consistent with our practice in NME cases, the Department is not rescinding this administrative review for these companies, but intends to complete the review and issue appropriate instructions to CBP based on the final results of the review.<sup>6</sup>

#### Preliminary Partial Rescission of Antidumping Duty Administrative Review

Inner Mongolia Jianlong's one sale during the POR is subject to both an ongoing new shipper review and this administrative review. The Department preliminarily rescinded the new shipper review based on a finding that the sale was not a *bona fide* sale.<sup>7</sup> Because the sale subject to this administrative review is the same sale preliminarily found to be a non-*bona fide* sale in the new shipper review, and there are no other reviewable sales by Inner Mongolia Jianlong during the POR, we are preliminarily rescinding this review with respect to Inner

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<sup>6</sup> See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694, 65694-95 (October 24, 2011) and the "Assessment Rates" section, below.

<sup>7</sup> See Memorandum to the File, "Inner Mongolia Jianlong Biochemical Co., Ltd.'s New Shipper Review Analysis," dated concurrently with this notice.

Mongolia Jianlong. For additional information regarding this determination, *see* the Preliminary Decision Memorandum.

#### Preliminary Results of Review

Based on record evidence, the Department preliminarily continues to treat Deosen Biochemical Ltd. and Deosen Biochemical (Ordos) Ltd. as a single entity for AD purposes. Furthermore, based on record evidence, the Department preliminarily finds that Neimenggu Fufeng Biotechnologies Co., Ltd. (aka Inner Mongolia Fufeng Biotechnologies Co., Ltd.), Shandong Fufeng Fermentation Co. Ltd., and Xinjiang Fufeng Biotechnologies Co., Ltd. are affiliated and should be treated as a single entity for AD purposes. For additional information, *see* the Preliminary Decision Memorandum.

In addition to the mandatory respondents, we preliminarily determine that CP Kelco (Shandong) Biological Company Limited and Shanghai Smart Chemicals Co., Ltd. also demonstrated their eligibility for a separate rate in this administrative review. Consistent with the Department's practice, we preliminarily assigned these companies a rate equal to the simple average of the weighted-average dumping margins assigned to the mandatory respondents in this review.<sup>8</sup>

Because Hebei Xinhe Biochemical Co. Ltd. did not submit a separate rate application or separate rate certification, or make a claim that it had no exports, sales, or entries of subject merchandise during the POR by the deadline established in the *Initiation Notice*, we preliminarily find that it failed to establish its entitlement to a separate rate and that it, therefore,

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<sup>8</sup> *See* Preliminary Decision Memorandum. Because only two weighted-average dumping margins were assigned to the individually examined respondents for these preliminary results, using a weighted average of these two rates risks disclosure of business proprietary information. Therefore we calculated a simple average of the rates assigned to Fufeng and Deosen.

remains a part of the PRC-wide entity.<sup>9</sup> The rate previously established for the PRC-wide entity is 154.07 percent. This rate is not under review.<sup>10</sup>

Finally, we preliminarily determined that Deosen and A.H.A. International Co., Ltd. did not cooperate to the best of their ability in this administrative review, and as a result, we have based their dumping margins on adverse facts available for these preliminary results.<sup>11</sup>

The Department preliminarily determines that the following weighted-average dumping margins exist for the POR:

| <b>Exporter</b>  | <b>Weighted-Average Dumping Margin (Percent)</b> |
|--|--|
| Neimenggu Fufeng Biotechnologies Co., Ltd. (aka Inner Mongolia Fufeng Biotechnologies Co., Ltd.)/Shandong Fufeng Fermentation Co., Ltd./ Xinjiang Fufeng Biotechnologies Co., Ltd. | 0.00   |
| Deosen Biochemical Ltd./Deosen Biochemical (Ordos) Ltd.  | 154.07   |
| A.H.A. International Co., Ltd.   | 154.07   |
| CP Kelco (Shandong) Biological Company Limited   | 77.04  |
| Shanghai Smart Chemicals Co., Ltd.   | 77.04  |

#### Disclosure and Public Comment

The Department intends to disclose to parties the calculations performed for these preliminary results within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). Interested parties may submit case briefs no later than 30 days after the date

<sup>9</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 79 FR 51548, 51549 (August 29, 2014) (“All firms listed below that wish to qualify for separate rate status in the administrative reviews involving NME countries must complete, as appropriate, either a separate rate application or certification...”).

<sup>10</sup> See Preliminary Decision Memorandum. Pursuant to the Department’s change in practice, the Department no longer considers the NME entity as an exporter conditionally subject to administrative reviews. See *Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings*, 78 FR 65963, 65970 (November 4, 2013). Under this practice, the NME entity will not be under review unless a party specifically requests, or the Department self-initiates, a review of the entity. Because no party requested a review of the entity, the entity is not under review and the entity’s rate is not subject to change.

<sup>11</sup> See Preliminary Decision Memorandum.

of publication of these preliminary results of review.<sup>12</sup> Rebuttals to case briefs may be filed no later than five days after case briefs are filed, and all rebuttal comments must be limited to comments raised in the case briefs.<sup>13</sup>

Any interested party may request a hearing within 30 days of publication of this notice.<sup>14</sup> Hearing requests should contain the following information: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If a request for a hearing is made, parties will be notified of the time and date for the hearing to be held at the U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230.<sup>15</sup>

Unless otherwise extended, the Department intends to issue the final results of this administrative review, which will include the results of its analysis of issues raised in the case briefs, within 120 days of publication of these preliminary results, pursuant to section 751(a)(3)(A) of the Act.

#### Assessment Rates

Upon issuance of the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review.<sup>16</sup> The Department intends to issue appropriate assessment instructions to CBP 15 days after the publication of the final results of this review.

For each individually examined respondent in this review whose calculated weighted-average dumping margin in the final results of review is above *de minimis* (*i.e.*, greater than or equal to 0.5 percent), the Department intends to calculate importer- (or customer) specific

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<sup>12</sup> See 19 CFR 351.309(c)(1)(ii).

<sup>13</sup> See 19 CFR 351.309(d).

<sup>14</sup> See 19 CFR 351.310(c).

<sup>15</sup> See 19 CFR 351.310(d).

<sup>16</sup> See 19 CFR 351.212(b)(1).

assessment rates, in accordance with 19 CFR 351.212(b)(1).<sup>17</sup> Where the respondent reported reliable entered values, the Department intends to calculate importer- (or customer) specific *ad valorem* rates by aggregating the dumping margins calculated for all U.S. sales to the importer (or customer) and dividing this amount by the total entered value of the sales to the importer (or customer).<sup>18</sup> Where the Department calculates an importer- (or customer) specific weighted-average dumping margin by dividing the total amount of dumping for reviewed sales to the importer (or customer) by the total sales quantity associated with those transactions, the Department will direct CBP to assess importer- (or customer) specific assessment rates based on the resulting per-unit rates.<sup>19</sup> We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review when the importer-specific assessment rate is above *de minimis*. Where either the respondent's weighted average dumping margin is zero or *de minimis*, or an importer (or customer-) specific *ad valorem* or per-unit rate is zero or *de minimis*, the Department will instruct CBP to liquidate appropriate entries without regard to antidumping duties.<sup>20</sup> For entries that were not reported in the U.S. sales database submitted by a company individually examined during this review, and any suspended entries that entered under an exporter's case number however the Department determined that the exporter had no shipments of subject merchandise, the Department will instruct CBP to liquidate such entries at the PRC-wide rate.<sup>21</sup>

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<sup>17</sup> See *Antidumping Proceedings: Calculation of the Weighted Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification*, 77 FR 8101 (February 14, 2012) ("*Final Modification*").

<sup>18</sup> See 19 CFR 351.212(b)(1).

<sup>19</sup> *Id.*

<sup>20</sup> See *Final Modification* at 8103.

<sup>21</sup> See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011), for a full discussion of this practice.



In accordance with section 751(a)(2)(C) of the Act, the final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.

#### Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) for the companies listed above that have a separate rate, the cash deposit rate will be that rate established in the final results of this review (except, if the rate is zero or *de minimis*, then the cash deposit rate of zero will be established for that company); (2) for previously investigated or reviewed PRC and non-PRC exporters that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate; (3) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the rate for the PRC-wide entity, which is 154.07 percent; and (4) for all non-PRC exporters of subject merchandise that have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter(s) that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

#### Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this

requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213.

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Ronald K. Lorentzen  
Acting Assistant Secretary  
for Enforcement and Compliance

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August 5, 2016

Date

## Appendix -- List of Topics Discussed in the Preliminary Decision Memorandum

1. Summary
2. Background
3. Scope of the Order
4. Selection of Respondents
5. Preliminary Determination of No Shipments
6. Preliminary Partial Rescission of Antidumping Duty Administrative Review
7. Application of Adverse Facts Available and Selection of Adverse Facts Available Rate
8. Single Entity Treatment
9. Discussion of Methodology
  - a. Non-Market Economy Country
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10. Recommendation

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